

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

John S. Stritzinger,)	
)	
)	Civil Action No. 3:16-461-TLW
Plaintiff,)	
v.)	
)	
Stephen Yelenosky, <i>345th District Court</i> ,)	
)	
Defendant.)	
_____)	

ORDER

The Plaintiff, John S. Stritzinger (“Plaintiff”), proceeding *pro se*, filed this civil action captioned “Criminal Complaint and Motion for Bench Warrant” against the Honorable Stephen Yelenosky (“Defendant”), the Texas state court judge presiding over Plaintiff’s divorce proceeding, on February 16, 2016. (Doc. #1). Plaintiff appears to bring the action pursuant to 42 U.S.C. § 1983 for alleged violations of his First, Fourth, Fifth, Eighth, and Fourteenth Amendment rights by Defendant in connection with various state court proceedings. (See Doc. #1 at 2–3).

The matter now comes before this Court for review of the Report and Recommendation (“the Report”) issued on April 6, 2016 by United States Magistrate Judge Paige J. Gossett, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(a) (DSC). (Doc. #28). In the Report, the Magistrate Judge recommends that the above-captioned case be dismissed without prejudice and without issuance and service of process pursuant to Federal Rule of Civil Procedure 41(b) (holding district courts may dismiss an action if a plaintiff fails to comply with an order of the court) and Chandler Leasing Corp. v. Lopez, 669

F.2d 919, 920 (4th Cir. 1982). (Doc. #28). Plaintiff filed a timely Objection to the Report on April 15, 2016. (Doc. #31).

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge's Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. In conducting its review, the Court therefore applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Hous. Auth. of City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of the standard set forth in Wallace, the Court has carefully reviewed, de novo, the Magistrate Judge's Report and Recommendation, Plaintiff's Objections, and all other relevant filings in this matter. The Court concludes that Plaintiff's Objections to the Report are without merit. Therefore, after careful review of the Report and Objections thereto, it is hereby **ORDERED** that the Report and Recommendation be **ACCEPTED** (Doc. #28). For the reasons articulated by the Magistrate Judge, this case is **DISMISSED** without prejudice and without issuance and service of process.

It is **FURTHER ORDERED** that Plaintiff's additional filings related to this matter are all hereby terminated as **MOOT**; specifically the following: Plaintiff's Motion to Delay Fees and

Issue Service “due to payments owed to him by the US Government, and Verizon” (Doc. #2); Motion to Add Party “to add the Honorable Judge Orlinda Naranjo of the Texas District Court (419th DC) to this proceeding” (Doc. #8); Motion to Add Parties and Order to Compel Appearance in Person or Via Teleconference (Doc. #9); “Motion for Directed Order to the Third Court of Appeals Texas, and Motion for Damages” (Doc. #11); 244 page Motion captioned a “Notice of Supporting Texas State District Orders and Request to Appoint Counsel in Criminal Proceeding Which is Improperly Marked” (Doc. #13); Motion captioned “Request to Order the Appearance of the US Attorney, and the Texas Attorney General and Specific Statement Regarding Constitutional Violations” (Doc. #14); “Motion to Compel Appearance” of minor children “in chambers or in open court as necessary” and “for a week at the each with their father in Charleston which the court has ample evidence that they enjoy” (Doc. #21 at 1); and “Motion to Lift Injunction and Findings of Fact—Motion to Seal Exhibit A—Motion Stay” (Doc. #32). As noted above, in light of the dismissal of this case, all pending motions are hereby terminated as **MOOT**.

IT IS SO ORDERED.

June 7, 2016
Columbia, South Carolina

s/ Terry L. Wooten
Chief United States District Judge